

General Information Letter: Apportionment of business income by
Subchapter S corporations.

January 6, 1999

Dear:

This is in response to your letter dated November 19, 1998 in which you request information concerning Illinois income tax treatment of S Corporations. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information we have enclosed a copy of 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department.

Although you have not specifically requested either type of ruling, the nature of your question and the information provided require that we respond only with a GIL.

Upon review of the information supplied by yourself I found only one substantive change. However, I should also note that Illinois has adopted a new organizational system for our statutes. Accordingly, throughout the materials I have made the necessary changes to the citations. One final note, the Illinois Department of Revenue does not enforce the franchise tax nor do we handle business incorporations. Although I have updated the citations, I cannot guarantee that the information is correct. To be certain, you should contact the Secretary of State at:

Office of the Illinois Secretary of State
Department of Business Services
Room 328
Springfield, Illinois 62756

The only substantive change in the rest of the materials is found at page IL-4 under the "Filing Requirements" section, subsection "Apportionment." The change concerns the makeup of the apportionment formula. Illinois is moving towards a single factor apportionment formula and has amended section 304 to add subsection (h) (copy enclosed). For tax years ending on or after December 31, 1998 and before December 31, 1999 the factor are 16 2/3% property; 16 2/3% payroll, and; 66 2/3% sales factor. Eventually, the sales factor alone will be used.

I hope that this has been helpful to you. If you have additional questions please feel free to contact me at the above address.

Very Truly Yours,

Charles Matoesian
Staff Attorney